

Appendix F

Sample Materials From SCALE (Scott County Association for Leadership and Efficiency)

The three examples relate to SCALE's equipment sharing agreement. They include a draft agreement, rates, and sample request form.

EXAMPLE 1: SCALE Equipment Sharing Agreement for Non-Emergency Conditions

I. General Purpose

This Agreement is made by and between the County of Scott, and the cities of: Belle Plaine, Elko, Jordan, New Market, New Prague, Prior Lake, Savage and Shakopee, all municipal corporations within the State of Minnesota. The intent of this Agreement is to create a system for the sharing of equipment and other resources available to political subdivisions within Scott County, Minnesota with other political subdivisions within said County. This agreement pertains to *non-emergency* conditions.

Emergency conditions are governed by the following: Law Enforcement Mutual Aid Pact, pursuant to Minn. Stat. § 471.59; the Minnesota Emergency Management Act of 1996, pursuant to Minn. Stat. § 12.33; and the Federal Emergency Management Agency (FEMA) Response and Recovery Policy Number: 9523.6.

II. Definitions

For purposes of this Agreement, the terms defined in this section shall have the following meanings:

- 1) "Automobile" means a land motor vehicle, trailer, or semi-trailer designed for travel on public roads.
- 2) "Party" means a political subdivision that is a party to this Agreement.
- 3) "Eligible Party" means a political subdivision that is entitled to become a party to this Agreement, at its own option. The eligible parties are the cities of Belle Plaine, Elko, Jordan, New Prague, Prior Lake, Savage, and Shakopee and the County of Scott, all of the State of Minnesota.
- 4) "Equipment Rates" means per hour charges for equipment use by other parties.
- 5) "Mobile Equipment" means land vehicles not licensed for road use.
- 6) "Requesting Party" means a party that requests equipment from other parties to the agreement.
- 7) "Responding Party" means a party that provides equipment owned by, or otherwise under the legal control of, the party to a Requesting Party.

- 8) “Requesting Official” means the person designated by a party who is responsible for making the request to other parties.
- 9) “Responding Official” means the person designated by a party who is responsible to determine whether and to what extent that party should provide equipment to a Requesting Party.

III. General Provisions and Procedure

1) Procedure

- a) **Request for Equipment.** Whenever, in the opinion of a Requesting Official, there is a need for equipment from other parties, the Requesting Official may call upon the Responding Official of any other party to furnish equipment.
- b) **Response to Request.** Upon the request for equipment from a Requesting Party, the Responding Official may authorize and direct his or her party’s personnel to provide equipment to the Requesting Party. This decision will be made after considering the needs of the Responding Party and the availability of resources.
- c) **Operator of Equipment.** Whenever the Responding Party determines that the Requesting Party does not have personnel qualified or capable of properly operating the requested equipment, the Responding Party may specify that the equipment be lent only if an operator of the Responding Party’s choosing is the sole party that will operate the equipment.
- d) **Forms.** Upon a need for equipment, the Intergovernmental Equipment Sharing Request Form, attached as Exhibit A and hereby incorporated, shall be completed by the authorized representative of the Requesting Party.
- e) **Recall of Equipment.** The Responding Official may at any time recall such equipment when in his or her best judgment, or by order of the governing body of the Responding Party, it is considered to be in the best interest of the Responding Party to do so.

2) General Provisions.

- a) The decision to request equipment, along with the procedure for making such requests, and the decision to respond or not to respond, shall be made in accordance with the internal rules and procedures of the individual parties. Failure to provide equipment shall not result in any liability to any party.
- b) Notwithstanding the above, the parties agree the following statement of procedures will be included in the various parties’ internal rules and procedures:
 - i) The provisions of this agreement are in place for the entire time equipment is away from the Responding Party’s control, regardless of weather, but not for lost time due to mechanical failure, unless the mechanical failure was caused by the Requesting Party or by activities under the control of the Requesting Party.

- ii) The Requesting Party agrees to pay or provide to the Responding Party any routine maintenance required to operate the equipment. Routine maintenance would include fuel, lubricants (grease, oil, or other fluids), repair of a flat tire, etc.
 - iii) The Requesting Party agrees to pay for repairs arising from equipment failures or damage to the equipment that are specifically attributable to any action of the Requesting Party. In situations of general failure of a given part or system on the equipment, a negotiation between the parties will determine who will pay for the repairs or any portion of the repairs.
 - iv) It is the Requesting Party's responsibility to return disabled equipment to the site where it was taken from, or to a site designated by the Responding Party.
 - v) Only employees of the Requesting Party may use borrowed equipment. Agents, contractors or other non-employee personnel will not be allowed to use borrowed equipment.
 - vi) It is the Requesting Party's responsibility to ensure borrowed equipment is stored in a safe place at any time it is under the Requesting Party's control and not being used.
 - vii) It is the Requesting Party's responsibility to ensure the equipment is cleaned and all fuel and fluids are full before returning the equipment to the Responding Party.
 - c) Borrowed equipment may only be used for public purposes; regardless of any partner agency's policy concerning private use of publicly owned equipment.
 - d) No use charges will be levied by a Responding Party to this Agreement for equipment rendered to a Requesting Party under the terms of this Agreement.
 - e) It shall be the responsibility of the administrator of each of the parties to fully apprise the participating personnel of the procedures, conditions, and limitations under this Agreement, as well as any amendments hereto.
- 3) Equipment Rates.
- a) The Requesting Party will be charged for equipment use as set forth in the "Equipment Rate Schedule" attached and incorporated herein as Appendix A to this agreement.
 - b) The Requesting Party will not be charged for the first eight (8) hours of use of the equipment with the Responding Party's operator. Any hours over eight (8) hours will be charged according to the rates as set forth in Appendix A.
 - c) The Requesting Party will not be charged for the first twenty-four (24) hours of actual use of equipment without the Responding Party's operator. Any hours over twenty-four (24) hours will be charged according to the rates as set forth in Appendix A.

- d) The Scott County Street Supervisory Group shall annually review and has the authority to set the Equipment Rates set forth in Appendix A for the following year. The annual Equipment Rates shall be set by consensus of the Scott County Street Supervisory Group.

IV. Insurance

Each party shall maintain general liability and automobile liability coverage protecting itself, its officers, agents, employees and duly authorized volunteers against any usual and customary public liability claims to the limits prescribed under Minn. Stat. § 466.04 and Workers' Compensation and shall be in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement. Each party shall be knowledgeable of their respective coverage document with respect to borrowed equipment and shall notify the coverage provider, if applicable, of the use of borrowed equipment.

V. Indemnification

- 1) All parties to this Agreement recognize each other as a political subdivision of the State of Minnesota. The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the responding party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of equipment in responding to a request for equipment by the requesting party pursuant to this agreement.

Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Municipal Tort Liability Act, Minn. Chap. 466, applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.

- 2) The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction, subject to the limits of liability under Minn. Stat. Chap. 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.
- 3) No party to this Agreement nor any officer of any party shall be liable to any other party or to any other person for failure of any party to furnish equipment to any other party, or for recalling equipment, both as described in this Agreement.

VI. Workers' Compensation

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing equipment pursuant to this agreement.

VII. Physical Damage to Borrowed Equipment and Automobiles

The Requesting Party shall be responsible for damages to or loss of equipment in its possession pursuant to this agreement. The Requesting Party shall follow all procedures

required to ensure that insurance coverage or self-insurance is properly in place for all borrowed equipment.

VIII. Data Practices

The parties agree to abide by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13, as amended, and Minn. Rules promulgated pursuant to Chap. 13. Each party agrees to hold the other parties harmless from any claims resulting from an unlawful disclosure or use of data, by its respective personnel, protected under state and federal laws by its personnel.

IX. Notice

Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the U. S. Postal Service, addressed to the attention of the City and County Administrators at the address of record.

X. Amendment or Changes

The parties agree that no change, amendment, or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as for this Agreement.

XI. Entire Agreement

It is understood and agreed that the entire agreement of the parties is contained in this Equipment Sharing Agreement and that it supersedes all oral agreements and negotiations between the parties relating to mutual aid, as well as any previous agreements presently in effect between the parties relating to mutual aid.

IN TESTIMONY WHEREOF, the parties have executed this Equipment Sharing Agreement as of the date and year last signed below.

EXAMPLE 2: SCALE Equipment Sharing Rates Effective 6/04

DESCRIPTION	Rate with Operator Per Hour	Rate Without Operator Per Hour
4WD Loader (with or without attachments)	\$100.00	\$70.00
Single Axle Dump Truck	\$70.00	\$40.00
Tandem Axle Dump Truck	\$70.00	\$40.00
Motor Grader	\$110.00	\$80.00
Pick-Up Sweeper	\$100.00	\$70.00
Single Person Aerial Bucket Truck	\$65.00	N/A
Two Person Aerial Bucket Truck	\$175.00	N/A
Tractor Loader Backhoe	\$66.00	36.00
Excavator Track Mounted	\$105.00	\$75.00
Skid Steer	\$70.00	\$40.00
Truck Mounted Jetter-Vacuum	\$155.00	N/A

Mobilization per piece of equipment delivered \$100 in and \$100 out unless hauled by Receiving Agency.

EXAMPLE 3: SCALE Equipment Sharing Form**INTERGOVERNMENTAL EQUIPMENT SHARING
REQUEST FORM****SUBMITTED BY ELIGIBLE POLITICAL SUBDIVISIONS***

1. Description of Equipment Being Borrowed: () Automobile () Mobile Equipment

Year _____ Make _____ Model _____

VIN/Serial Number: _____ Estimated Actual Cash Value _____

Current hours on equipment or odometer reading: _____

General condition of equipment including any dents or damage:

2. Describe Intended Use of Equipment:

3. Requested Time Period of Usage:

From: _____ To: _____

4. Requesting Political Subdivision:

5. Name/Title of Authorized Requesting Official for Requesting Political
Subdivision:

*Eligible Political Subdivisions include the County of Scott, Minnesota and those cities that are parties to the Equipment Sharing Agreement. They include the cities of Belle Plaine, Elko, Jordan, New Market, New Prague, Prior Lake, Savage and Shakopee, Minnesota.

Signature of Authorized Responding Official _____ Date

Signature of Authorized Requesting Official _____ Date

FOR RESPONDING PARTIES USE ONLY

Date Equipment Returned: _____

Condition of Equipment: _____